

MISSOURI CLEAN WATER COMMISSION MEETING

February 27, 2001

Holiday Inn Select, Columbia, Missouri

MINUTES

Present

Thomas A. Herrmann, Chairman, Missouri Clean Water Commission
Janice Schnake Greene, Commissioner, Missouri Clean Water Commission
Arthur E. Hegi, Commissioner, Missouri Clean Water Commission
Cosette D. Kelly, Commissioner, Missouri Clean Water Commission
Kristin M. Perry, Commissioner, Missouri Clean Water Commission

Clifford J. Baumer, USDA-NRCS, Columbia, Missouri
Patricia Jo Boyers, Pike Creek Common Sewer District, Poplar Bluff, Missouri
Stan Christopher, Archer Engineers, Lee's Summit, Missouri
Randy Clarkson, Department of Natural Resources, Jefferson City, Missouri
Ann Crawford, Department of Natural Resources, Jefferson City, Missouri
Cindy DiStefano, Department of Conservation, Columbia, Missouri
Bob Davis, Little Blue Valley Sewer District, Independence, Missouri
Chris Erisman, Village of Duquesne, Joplin, Missouri
Dennis Figg, Missouri Prairie Foundation, Jefferson City, Missouri
Tom Flier, City of Lewistown, Lewistown, Missouri
Jerry L. Foster, Department of Natural Resources, Jefferson City, Missouri
Doug Garrett, Department of Natural Resources, Jefferson City, Missouri
James M. Gasich, Lake St. Louis Community Assoc., Lake Saint Louis, Missouri
Bill Geisendorfer, City of Lewistown, Lewistown, Missouri
John Howland, Department of Transportation, Jefferson City, Missouri
Ike Karaca, Fountain 'n Lakes, St. Louis, Missouri
Sallie Keeney, REGFORM, Jefferson City, Missouri
Dave Kindelspire, Department of Natural Resources, Jefferson City, Missouri
Malinda King, Acting Secretary, Missouri Clean Water Commission
Susan Kliethermes, Lathrop & Gage, Jefferson City, Missouri
Ed Knight, Director of Staff, Missouri Clean Water Commission
Stephen L. McKenzie, City of Lewistown, Lewistown, Missouri
Richard McMillian, Southwest City, Springfield, Missouri
John Madras, Department of Natural Resources, Jefferson City, Missouri
James Mellem, City of Kansas City, Kansas City, Missouri
Kevin Mohammadi, Department of Natural Resources, Jefferson City, Missouri
Gary Mount, City of Clinton, Clinton, Missouri
Deborah Neff, Assistant Attorney General, Jefferson City, Missouri
Kevin Perry, REGFORM, Jefferson City, Missouri
David Potthast, Department of Natural Resources, Jefferson City, Missouri
Tom Ratermann, Boone County Regional Sewer District, Columbia, Missouri
Scott A. Robbins, Pike Creek Common Sewer District, Poplar Bluff, Missouri

Chad Sayre, City of Lewistown, Columbia, Missouri
Randy Sarver, Department of Natural Resources, Jefferson City, Missouri
Stan Schultz, City of Centerville, Poplar Bluff, Missouri
David B. Shoush, City of Lewistown, Memphis, Missouri
John Souttee, Taney County Regional Sewer District, Forsyth, Missouri
Wes Sylvester, The Village of Duquesne, Joplin, Missouri
Steve Townley, Department of Natural Resources, Jefferson City, Missouri
Larry VanGilder, Taney County Regional Sewer District, Branson, Missouri
Llona Weiss, Department of Natural Resources, Jefferson City, Missouri
Mike Zimmerman, City of Clinton, Springfield, Missouri

Chairman Herrmann called the meeting to order and introduced Commissioners Kelly, Hegi, and Greene; Director of Staff, Ed Knight; Assistant Attorney General, Deborah Neff; and Acting Secretary, Malinda King. Commissioner Minton was absent. Commissioner Perry arrived shortly after the public hearing began.

ADMINISTRATIVE MATTERS

Public Hearing on Proposed FY 2002 Clean Water SRF IUP and State Grant Priority List

All witnesses were sworn in by the court reporter to testify at a public hearing held on the Proposed FY 2002 Clean Water State Revolving Fund Intended Use Plan and State Grant Priority List. A transcript of this hearing will be available for review at the office of the Missouri Clean Water Commission, Jefferson State Office Building, 205 Jefferson Street, Jefferson City, Missouri.

Clean Water State Revolving Fund Intended Use Plan Project Cost Adjustments

Steve Townley, Chief of the Water Pollution Control Program Financial Services Section, reported the April loan closing is rapidly approaching. Discussions with the communities found that two communities have updated project costs from last year's Intended Use Plan hearing. Conway requested an increase from \$311,200 to \$375,000, the limit of their bond authorization. LaPlata requested an increase from \$647,700 to \$1,026,000, the limit of their voter-authorized debt and in line with current project cost estimates. The total increase request will not displace anyone on the 2001 Intended Use Plan but there would be a potential impact on the 2002 communities. Mr. Townley supported these increase requests.

Commissioner Hegi asked what the increase for LaPlata is for.

Mr. Townley replied the community has changed the scope of their project to include areas recently annexed.

Commissioner Hegi noted he has information showing that small diameter collection systems cuts the cost by about two-thirds. He asked if these types of things are considered in these projects.

Mr. Townley stated LaPlata is replacing a 15-inch sewer that is obviously undersized at this time and has exceeded its life expectancy. The projects are designed for at least 20 years. Staff tries to err on the conservative side so communities have the ability to use the facilities long after the debt is repaid. The most cost-effective ways to solve the needs are looked at. Mr. Townley stated the 25/75 percent program was developed to help some of these communities.

Commissioner Perry noted the majority of the loan program projects are under \$5 million. Some of the larger cities take up significant amounts of these funds. She asked if there is a priority to rural communities.

Mr. Townley replied until rather recently staff has had the opportunity to finance everyone who have made application through the leveraged loan program. In the last three years, staff has seen a growing contingency list. Mr. Townley stated he believes this will grow even more next year. He anticipates the Metropolitan St. Louis Sewer District will be making a lot of use of the program, which they are not presently doing. There will be an effort by staff to balance the needs of St. Louis and the major metropolitan areas versus outstate Missouri. The Missouri Water and Wastewater Review Committee is the counterpart to Rural Development and Block Grant. That program is going forward trying to balance all of the opportunities that staff has with the needs of all of the communities across the state. Mr. Townley noted there will never be enough money to satisfy all the needs but staff is doing their best to make environmental infrastructure affordable.

Commissioner Perry asked if projects are fully funded when they make the priority list or if there is an effort to cut costs whenever possible.

Mr. Townley stated staff does this at every opportunity.

Commissioner Perry stated if they are given the entire funding, there is not much incentive.

Mr. Townley noted just because money is allocated to them based on an application does not mean that that is guaranteed to them. They have to go through all the programmatic requirements and they have to submit a facility plan that establishes the scope of the project and the eligibility. Eligibility is limited because there are no grant increase authority or provisions. Looking forward 20 years makes it look like a far bigger facility is being built than is needed.

Commissioner Hegi asked if the engineers in the department draw up the plans for these projects.

Mr. Townley replied the communities hire their own engineering firms to do this. Staff engineers review those documents.

Commissioner Hegi asked about engineering costs.

Mr. Townley stated staff does review the engineering costs. There is a scale in the regulations to reimburse engineering firms, which is a carryover from the EPA construction grant days. This was brought forward into the present day programs so communities had at least a reaction to what was at one point in time reasonable. If communities want to pay more if conditions are warranted they can do so. Mr. Townley recommended that the FY 2001 Intended Use Plan be adjusted as follows: Conway's amount be increased to \$375,000 and LaPlata's amount be increased to \$1,026,000.

Commissioner Greene moved to **accept the staff recommendation regarding project cost adjustments**; seconded by Commissioner Kelly and unanimously passed.

Commission Action on January 24, 2001 Meeting Minutes

Commissioner Hegi noted he reviewed the portion of the minutes that discussed discharges into the Missouri River and now wished he had voted against it. He asked how many more instances of this we have in the state where water is discharged into the Missouri and the Mississippi Rivers.

Mr. Knight stated the historic preference has been to move discharges downstream to the larger rivers. The more flow in the river, the better the stream is able to accommodate the treated wastewater.

Chairman Herrmann noted in this case it was required because of the 208 Plan.

Mr. Knight noted that is correct. The plan prepared in the 1970s made that recommendation and was adopted by the commission at that time. Treatment is still required and in this case it was the same level of treatment they were previously providing on those small streams.

Commissioner Hegi stated if this is being done from the headwaters of the Mississippi to the Missouri there is no wonder there is all this dead area on the Mississippi River.

Commissioner Hegi moved to **approve the January 24, 2001 minutes**; seconded by Commissioner Perry and unanimously passed.

Water Quality Information-- Biological Criteria Development

John Madras, Chief of the Water Pollution Control Program Planning Section, reported the Federal Clean Water Act requires protection of the physical, chemical and biological integrity of the nation's waters. Chemical contamination has been dealt with by adopting specific criteria into the Water Quality Standards. Physical integrity has been managed somewhat through water

quality certifications to protect the physical habitat. There were no quick and easy answers for biological integrity. The department began a thorough examination of the biological conditions of streams throughout the state. Mr. Madras noted this will at some point be incorporated into the Water Quality Standards. For the past seven years there have been narrative criteria which describe these in general terms. Mr. Madras commented the work being done over the past decade will help define more specifically what the actual expectations are as far as biological integrity and help identify the problems related to that.

Randy Sarver, Environmental Services Program, provided a slide presentation on biological criteria development for the Missouri Department of Natural Resources Water Quality Standards. He will provide a hard copy of his presentation to the commission members.

Other

Peruque Creek

James Gasich, Lake St. Louis Community Association, stated there is great concern about the package treatment plants that are currently being proposed along Peruque Creek which fills their lake. The issue was tabled before the St. Charles County Planning and Zoning Commission last week but will come back up for approval at next month's meeting. Mr. Gasich noted he is under the impression that Dardenne Creek has a no-discharge metropolitan stream classification. He continued he was asked to gather information on what it would take to get Peruque Creek classified as a no-discharge metropolitan stream.

Mr. Knight responded that staff will be putting together a work group to start looking at issues prior to proposing changes to the Water Quality Standards regulation. He noted members of the Lake St. Louis Community Association should participate on this group or receive information from this group. Mr. Knight suggested Mr. Gasich continue working with John Madras regarding the progress of this work group.

Mr. Gasich informed the commission that the proposed treatment plant that was in front of St. Charles County was less than a mile and a half from their lake. This would discharge the effluent from the treatment plant serving 153 homes into a tributary of Peruque Creek that fills their lake. A package treatment plant in Foristell also discharges into Peruque Creek, with 2000 homes processing 60,000 gallons of wastewater. This would devastate the lake and the water quality. Mr. Gasich asked for any assistance the commission could give.

Plan Review

Chad Sayre, Allstate Consultants, spoke to the commission regarding plan review by consultants. He stated plan review in-house is more effective than outside review by consultants. Mr. Sayre stated more and more a higher level of competency is needed in biologic criteria and other areas.

Mr. Knight reported there is a push toward increasing the size of consulting contracts for plan reviews. The primary driving force is last year's law on permit fees. That law has a requirement for those permits that go through the public notice process to be issued within 180 days of receipt of the application. There is a 30-day public notice plus time needed to work out comments received during the public notice. This means staff must review, comment on and get all issues related to plan and specification review resolved very quickly. Consultants are being brought on line to help staff meet statutory requirements in those periods when there is a high level of staff turnover or of exceptional work loads. The intent is to do as much of this in-house as possible but there will be times when consultants need to be used to get the work completed to meet the statutory deadlines.

Commissioner Perry asked if it was possible that the consultants that are hired at those times be the same people so there would be some continuity.

Mr. Knight noted bids have to be taken and there are time limits.

Mr. Sayre noted time has never been an issue on their projects, which could be because they are not as large. This is more about interpretation of plans and specifications for construction. They prefer to limit exposure to a project to people that are in-house for continuity.

Mr. Clarkson noted this is mostly about review of construction permits. There are engineers who review engineering documents prepared by consultants. This started when the massive growth began in Branson and the regional office staff in Springfield could not keep up with the demand. About this time the Consulting Engineers Council was proposing more contract work. These things worked together to develop a proposal to hire consultants. There is a problem in the Kansas City area maintaining staff because salaries are not competitive which led to a lot of staff turnover. This led to many complaints about taking too long to review projects in these two regions. A contract was set up to fill in predominantly for the regional offices where there is a small number of engineers. Presently the contract is being used mostly in the Springfield regional office and to a lesser extent in the Kansas City regional office. Mr. Clarkson reported there are presently four vacancies in the Water Pollution Control Program Engineering Section. State salaries are not competitive and there is always turnover. The engineering contract is critical for staff to be able to turn documents over in a timely fashion. There are presently two firms under contract with the department. They are used predominantly in the regional offices with occasional work in the central office.

Commissioner Greene asked if this is done through a bid process or a quality process.

Mr. Clarkson responded it is quality but the cost is monitored very closely.

Mr. Hegi asked what would happen if a facility was built and operated according to DNR requirements without DNR review. DNR could just monitor the facility to see if it is meeting the standards as required by the Clean Water Commission.

Mr. Clarkson said that would certainly reduce the resource effort involved. Many consultants are very capable and it would work fine but there are applications that would be problematic in terms of whether or not they would meet the effluent limitations.

Commissioner Hegi said if they did not meet the limitations the engineering firm would not get bonded again and they would be out of business.

Chairman Herrmann stated if you've ever done contract negotiations with construction contractors, you recognize what a whirlpool you create. You will never assess the blame and liability for problems.

Mr. Clarkson noted when things go wrong it is always someone else's fault. You have a bond but does it actually accomplish anything. Mr. Clarkson noted the department's philosophy is to provide technical assistance up-front in order to keep enforcement out of the picture as much as possible.

Chairman Herrmann stated if the effluent limitations and all other criteria are met today without any oversight by the staff, who's to say the criteria will be met in the future when the construction bonds have not yet been paid off. The state review is for what will happen in the future and to make sure that the investment of the people is good for the life of the project.

Commissioner Hegi asked how the staff could determine this.

Chairman Herrmann said staff review is an independent oversight looking at the big picture. Delegating to someone to perform to a certain standard does not give the necessary oversight to assure that the people's investment is going to be good for the life of the project and that it will meet the discharge criteria 20 years down the line.

Mr. Clarkson said another issue that comes up often is that staff is very much involved in the facility planning stage and the planning process. One of the things looked at is whether or not it's even appropriate to build a plant. Often building a plant is not the correct solution. Facilities often need to be connected to other facilities. Mr. Clarkson noted the planning process is probably the most important review the staff does. He noted Mr. Sayre's point is well taken and staff would prefer to operate that way but simply cannot function in that manner due to staff turnover and the level of inexperienced staff.

Commissioner Hegi stated Shell Knob would trade 55 miles of septic tanks with lateral lines running into Table Rock Lake through 98% soils that are not suitable for lateral lines under control of another agency of state government who won't permit anything else. Table Rock Lake will get worse because there is no way to treat that sewage.

Kevin Perry, Regulatory Environmental Group for Missouri, stated his association played a long-term role in the working groups that led up to the passage of the fee bill. In discussions the department made a firm commitment to participating in and forming another advisory group that would make recommendations on how the process of getting a permit could be streamlined. Mr. Perry also participated in this group. One of the recommendations made to the department from this group was that the department, as much as possible in these engineering reviews, make use of outside consultants when it is reasonable and when it contributed to the process so that permit reviews could be completed more quickly. Mr. Perry noted they support using outside engineers to help speed up the process.

Premium Standard Farms New Technology

Mr. Knight reported this spring may be a good time to visit Premium Standard Farms new technology sites. This could be set up as a special tour date not in conjunction with a commission meeting.

Commissioners' Conference

The department has scheduled a commissioners' conference for April 6 in Jefferson City from 9:00 a.m. to 4:30 p.m.

LEGAL MATTERS

Golden Glade Subdivision

Deborah Neff, Assistant Attorney General, reported a permit denial was appealed by the Golden Glade Subdivision. A new permit was subsequently received thereby making the permit appeal moot. The appellant filed a Motion to Dismiss this appeal which is not opposed by the department. Ms. Neff requested the commission dismiss the appeal as requested.

Commissioner Greene moved to **dismiss appeal number 344 Golden Glade Subdivision;** seconded by Commissioner Kelly and unanimously passed.

Metropolitan St. Louis Sewer District Hunters Ridge-Colchester Channel Improvement

Deborah Neff, Assistant Attorney General, reported an engineer filed this appeal on behalf of the Metropolitan St. Louis Sewer District. The commission secretary provided a copy of the Reed vs. Industrial Relations case in order that they could read the case and know that if you are a corporation or other entity you have to have an attorney file an appeal. MSD communicated with Ms. Neff who discussed the matter with them. A Motion to Dismiss was filed because the 30-day timeframe had expired prior to an attorney filing the appeal. The recommendation of the hearing officer was to dismiss this appeal. Ms. Neff requested the appeal be dismissed on the basis that it was filed beyond the 30-day timeframe.

Commissioner Greene moved to **dismiss appeal number 352 Metropolitan St. Louis Sewer District Hunters Ridge-Colchester Channel Improvement**; seconded by Commissioner Perry and unanimously passed.

Ms. Neff explained that the commission had directed counsel and the commission secretary to provide a copy of the Reed case in appeals filed by corporations or other entities.

There being no further business to come before the commission, Chairman Herrmann adjourned the February 27, 2001 meeting.

Respectfully submitted,

Edwin D. Knight
Director of Staff